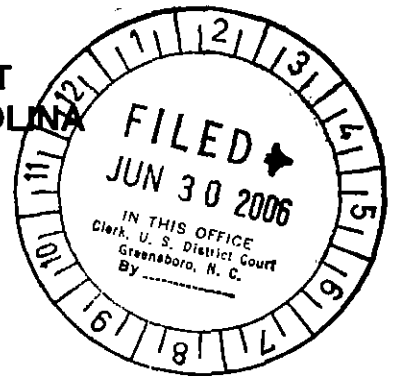


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



WILLIAM HENCELY DAVIS, JR.,

Petitioner,

v.

D.G. WOOD, Supt.,
Scotland Correctional Inst.,

Respondent.

1:04CV517

O-R-D-E-R

On April 17, 2006, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties in this action and a copy was given to the court.¹

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

¹The court notes that Petitioner has filed yet another motion to amend (docket no. 63). This motion, like the previous ones, is a continuation of Petitioner's attacks on his underlying conviction. It is therefore a successive section 2254 petition subject to the certification rule set forth in section 2244(b)(3)(A). This motion is DENIED for lack of jurisdiction.

IT IS HEREBY ORDERED that Petitioner's motion to amend his Rule 60 motion [Pleading no. 56] be **DENIED** due to lack of jurisdiction, that Petitioner's motion pursuant to Federal Rule of Civil Procedure [Pleading no. 55] be **DENIED** also due to lack of jurisdiction, and that this action be, and is hereby, dismissed with prejudice. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.


UNITED STATES DISTRICT JUDGE

DATE: June 30, 2006